

**fsUNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY
LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

Kevin Turner and Shawn Wooden, on behalf
of themselves and others similarly situated,

Hon. Anita B. Brody

Plaintiffs,

Civ. Action No. 14-00029-AB

v.

National Football League and NFL Properties
LLC, Successor-in-interest to NFL Properties,
Inc.,

Defendants.

THIS DOCUMENT RELATES TO: ALL
CLIENTS OF GPW

**JOINDER OF GOLDBERG, PERSKY & WHITE, P.C. IN THE MOTION OF THE NFL
PARTIES TO APPROVE MODIFICATIONS TO THE NFL CONCUSSION
SETTLEMENT AGREEMENT PURSUANT TO SECTION 6.6 WITH SOME
CONCERNS**

Goldberg, Persky & White, P.C. joins the Motion of the NFL Parties with some concerns to Approve Modifications to the NFL Concussion Settlement Agreement Pursuant to Section 6.6 (the "norming Settlement"). *ECF Doc. #11567*.

As background, this firm filed the first two lawsuits that initiated this litigation and the Class Action Settlement. Presently, Goldberg, Persky & White, P.C. represents over 600 players individually retained in the NFL Concussion Settlement which estimates that more than half of their clients are black or brown former NFL players.

As background, the intervenors first brought the issue of race norming before this Honorable Court in August 2020 and it was vehemently opposed by the NFL Parties and Class Counsel. *See ECF Doc. #11169*. This Honorable Court denied said motion on November 20,

2020. *See ECF Doc. #11237*. With attention and pressure mounting, Class Counsel and the NFL were directed to enter into a mediation to address concerns involving the race norming of former NFL players. *See ECF Doc. #11325*. The end result is a Modification of the Settlement Agreement that seeks implementation of a race neutral protocols so that no black or brown former NFL player is unfairly penalized under the Settlement.

With the Court's inquiry, this firm raises the following concerns prior to approval of the Modifications to the NFL Concussion Settlement Agreement Pursuant to Section 6.6 (the "norming Settlement"). *ECF Doc. #11567*:

- 1.) Class Counsel's being listed as a Released Party on behalf of all Class Members (*See Article I at page 7*); and
- 2.) Class members being denied the right to appeal a denial regarding retesting eligibility (*See Section 2.5*); and
- 3.) The Modification fails to include a time certain for the implementation of the "New Method" and the "Long Term Method" (*See Section 3.1*).

This firm, with the stated concerns strongly supports the immediate implementation of race neutral protocols that were failed to be provided by the NFL and Class Counsel to the members of this class. Indeed, this firm, without any doubt, agrees that it is not "generally accepted" medicine and scientific practice to racially bias any group. Section 6.6(a) requires the parties to make good faith modifications of "generally accepted medical science." As such, a racially neutral protocol would satisfy that low bar of acceptability in science, medicine, morality, and fairness.

Wherefore, this firm supports a race neutral testing protocol and the above-reference concerns will be fairly addressed prior to implementation. This firm agrees that significant time and expense will be required by individual attorneys to achieve "awards for many players who did not receive benefits but will now be eligible for significant awards." *See ECF Doc. #11574*. This firm will continue to monitor and guide the best interests of the former players.

Dated: January 21, 2022

GOLDBERG, PERSKY & WHITE, P.C.

/s/ Jason E. Luckasevic

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing document was served electronically *via* the Court's electronic filing system on this 21st day of January, 2022, upon all counsel of record.

Dated: January 21, 2022

/s/ Jason E. Luckasevic